

REMARKS

The present response is submitted in reply to the Office action which was issued on December 3, 2008. Claims 1-16 are pending in this application. Claims 1-11 and 14-16 are rejected and claims 12-13 are withdrawn. The Applicants wish to thank the Examiner for the withdrawal of the anticipation rejection and the claim objection from the previous Office action. Reconsideration is respectfully requested in light of the amendments being made hereby and of the following remarks. No new matter has been added.

Rejection of claims 1-5 and 14-16 under 35 U.S.C. 103(a)

Claims 1-4, 6-11 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 89/00106 (Plamthottam, et al.) in view of U.S. Publication No. 2004/0219356 (Valdez). The Examiner states that Plamthottam, et al. teach a self-adhesive, flexible sealing tape comprising at least one flexible, self-adhesive core/carrier layer provided with an envelope/two-sided coating comprising a second adhesive system wherein the envelope/coating comprises an expanded pressure-sensitive adhesive tape, and that the material for the core/carrier layer is selected from the group consisting of thermoplastic rubbers on the basis of styrene-isoprene-styrene block copolymers, styrene-butadiene-styrene block copolymers, copolymers of vinyl acetate and acrylates thermally cross-linked as in claim 1. The Examiner further states that Plamthottam, et al. teach the remaining limitations of the present claims, except for the envelope/two-sided coating completely surrounding at least one carrier-core layer, the envelope/coating having a foam-like structure, the sealing tape being equipped with reinforcing elements which

stabilize the sealing tape in the longitudinal direction, the reinforcing element being selected from the group consisting of threads, nonwovens or interlaid scrims, wovens, knitted fabrics and crocheted fabrics, and the tape is used for adhesively bonding vapour barrier films or vapour retarder films by adhesively bonding the films to walls.

The Examiner relies on Valdez for teaching an adhesive tape with an envelope/coating having a foam-like structure and being equipped with reinforcing elements which stabilize the sealing tape in the longitudinal direction, and where the reinforcing element is selected from the group consisting of threads, nonwovens and wovens for forming a tape that can withstand humidity and extreme temperatures without suffering from disintegration. The Examiner concludes that it would have been obvious to have provided the foam tape with the stabilizing structure in Plamthottam, et al. in order to form a tape that can withstand humidity and extreme temperatures without suffering from disintegration, as taught by Valdez.

Regarding the limitation “the tape is used for adhesively bonding vapour barrier films or vapour retarder films, by adhesively bonding said films to walls,” the Examiner states that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. The Examiner thus concludes that since the prior art structure is capable of performing the intended use, it meets the present claim.

Regarding the limitation “the envelope/two-sided coating completely surrounding at least one carrier/core layer,” the Examiner states that Plamthottam, et al. disclose that

the layers of the adhesive tape are extruded together to form the tape. Thus, the Examiner's position is that it would have been obvious to one of ordinary skill in the art to change the shape of the layers to surround the core since it requires only a change in shape.

Claim 5 has been rejected as being unpatentable over Plamthottam, et al. in view of Valdez, and further in view of U.S. Patent No. 3,297,846 (Peltier). The Examiner states that Plamthottam, et al. and Valdez teach the presently claimed invention, except for the pressure-sensitive adhesive tape comprising an adhesive base on a material selected from the group consisting of vinyl isobutyl ether and isobutene. The Examiner refers to Peltier for teaching a self-adhesive, flexible sealing tape comprising at least one flexible, self-adhesive core or at least one flexible, self-adhesive carrier layer provided with an envelope or two-sided coating comprising a second adhesive system wherein the envelope/coating comprises an expanded pressure-sensitive adhesive tape and wherein the pressure-sensitive adhesive tape comprises an adhesive based on a material selected from the group consisting of vinyl isobutyl ether and isobutene for attaching the tape to a surface. The Examiner concludes that it would have been obvious to one skilled in the art to have provided the adhesive in the modified Plamthottam, et al. product in order to attach the tape to a surface as taught by Peltier.

The Applicants respectfully submit that to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Third, the prior art reference (or references

when combined) must teach or suggest all of the claim limitation. Moreover, the prior must not teach away from the present invention. The Applicants respectfully submit that one skilled in the art would have no suggestion or motivation to combine the aforementioned references in order to arrive at the presently claimed invention. Additionally, even if one skilled in the art were to consider the combination of teachings, each and every limitation of the present invention would not be disclosed, nor would there be a reasonable expectation of success if the aforementioned references were to be considered.

The Applicants respectfully point out that claim 1 of the present invention recites a self-adhesive, flexible sealing tape comprising at least one flexible, self-adhesive core or at least one flexible, self-adhesive carrier layer consisting of a material selected from the group consisting of thermoplastic rubbers on the basis of styrene-isoprene, styrene block copolymers or styrene-butadiene-styrene block copolymers, copolymers of vinyl acetate, polyisobutylenes and acrylates which have been thermally or UV-cross-linked. The core is provided with an envelope or two-sided coating which comprises a second adhesive system. The envelope or two-sided coating comprises an expanded pressure-sensitive adhesive tape.

Plamthottam, et al. teach adhesive tapes having a carrier layer comprising an electron-beam cured polymer matrix, low density microspheres and at least one pigment. While Plamthottam, et al. do not disclose a sealing tape, the reference also fails to teach that the envelope/coating comprises an expanded pressure-sensitive adhesive tape. In contrast to the Examiner's position set forth at page 3, lines 17-20 or page 6, lines 18-22

of the Office action, the Applicants respectfully submit that Plamthottam, et al. fail to teach or disclose the use of expanded pressure sensitive adhesives as the envelope.

Furthermore, the carrier layer of the reference always comprises low density microspheres and at least one pigment (claim 1) which is preferably fumed silica (page 4, lines 13-16). On the other hand, the presently claimed invention recites a hotmelt adhesive core material which does not contain any filler. With regard to claim 2 of the present invention, it is pointed out that according to Plamthottam, et al. the PSA polymer matrices of the carrier layer comprise two different monomers in a monomer system, one monomeric part having a glass transition temperature of less than about -25°C and “[t]he balance of the monomer system may be comprised of second monomers which, if homopolymerized, would have a glass transition temperature greater than -25°C , normally greater than about 10°C ” (page 10, lines 18-22). Therefore, the glass transition temperature according to Plamthottam, et al. is normally greater than 10°C , and not less than 0°C pursuant to present claim 2.

Moreover, the skin layer according to Plamthottam, et al., as noted by the Examiner in the present Office action, is not a pure dispersion acrylate (as recited in present claim 3), but rather is a solution acrylate.

Still further, the envelope of the present invention has a thickness of 0.2 to 1.5 mm as set forth in present claim 8. However, the Applicants submit that the skin layers according to Plamthottam, et al. have a thickness of 1 to 5 mils (which corresponds to approximately 0.025 mm to 0.125 mm). This difference in thickness further supports the Applicants’ position that the skin layer of Plamthottam, et al. is not an expanded pressure

sensitive adhesive (PSA), while the envelope of the present invention is an expanded dispersion pressure sensitive adhesive mass based on pure acrylics containing filled hollow microtubules as fillers. This feature of the presently claimed invention is simply not taught or disclosed by Plamthottam, et al. alone or in combination with the additional cited prior art.

In summary, the sealing tape of the present invention as claimed differs from that of Plamthottam, et al. not only in that the envelope/coating completely surrounds the carrier/core layer, but also in that the core layer has a different composition (with a different glass transition temperature as recited in claim 2). The envelope is in contrast to Plamthottam, et al., as it is an expanded PSA, with a different thickness of the envelope layer pursuant to Plamthottam, et al. Therefore, the only common feature of the sealing tape of the presently claimed invention and the adhesive tape of Plamthottam, et al. is that both comprise two different adhesive masses.

In view of the numerous deficiencies of Plamthottam, et al., the reference, alone or in combination with the other cited prior art, simply fails to teach and/or disclose each and every limitation of the presently claimed invention.

As noted above, the Examiner had also argued that it would have been obvious to one skilled in the art in view of Plamthottam, et al. to co-extrude the carrier and the envelope so that the carrier is completely surrounded. The Applicants respectfully disagree. The Plamthottam, et al. reference explicitly teaches that the carrier layer is coated on each side with a skin layer (page 3, line 15-19), but fails to point out that the skin layer totally encloses the carrier. Moreover, on page 6, lines 18-20 of Plamthottam,

et al., the reference demonstrates that the adhesive composition exits the die of the extruder onto (emphasis added) the backing film, but fails to teach or suggest that the die could cast the adhesive around the carrier.

Plamthottam, et al. also teach that a co-extrusion process is provided for obtaining a laminate (page 6, line 23), but again totally fail to teach or disclose any process in which the carrier is to be enclosed by the adhesive. In summary, the disclosure of Plamthottam, et al. simply teaches away from the presently claimed feature of enclosing the carrier layer with an adhesive layer. The Examiner is respectfully requested to reconsider her position regarding the primary reference of Plamthottam, et al.

With regard to Valdez, the Applicants respectfully refer to the previously submitted arguments and incorporate the same by reference herein. Moreover, it is pointed out that Valdez teaches a weatherstrip tape comprising a heat-activatable adhesive olefinic resin carrier layer in combination with a pressure-sensitive adhesive layer(s) (paragraph [0015]), wherein the support layer is releasably bonded to the second major surface of the heat-activatable adhesive layer (paragraph [0058]). Therefore, two pressure sensitive adhesive layers may be arranged on top of one another (not on both sides of the carrier layer) with a primer layer in between (paragraphs [0117], [0118]).

The possibly fibrous reinforcing elements of Valdez (paragraph [0049]) are part of a general enumeration of commonly known additives to adhesive tapes, which do not indicate a certain and special role for the intended purpose of the tape. The requirements given by Valdez on page 1 in paragraph [0014] (i.e., that the tape can withstand humidity and extreme temperature without suffering from disintegration) are general requirements

of sealing tapes.

Lastly, while the tape “can reliably be used in bonding, e.g., rubber gaskets in a vehicle, in particular a motor vehicle such as a car” (paragraph [0014]), in contrast to the present invention the sealing function is totally different. Thus, one skilled in the art would not have considered the Valdez reference for solving the problem which is addressed by the present invention.

In view of the above, the combination of teachings of Plamthottam, et al. and Valdez would clearly not have rendered the present invention obvious. Valdez fails to make up for any of the numerous deficiencies of Plamthottam, et al.

Regarding Peltier, the reference fails to make up for the numerous deficiencies of Plamthottam, et al., alone or in combination with Valdez. In particular, the reference teaches a fire sensing tape comprising an elongated flexible electrically non-conductive carrier of synthetic plastic sheet material with an elongated flexible electrically conductive stripe fixed to one side of the carrier (preferably centered between the side edges of the carrier and containing metal, preferably silver particles) and a pressure sensitive adhesive on the opposite side of the carrier. However, neither the carrier nor the stripe, both of which could function as a carrier, is a self-adhesive tape itself. Additionally, neither is completely surrounded/enclosed by a second adhesive, which in this case is preferably a pressure sensitive adhesive composition such as a plasticized polyisobutylene (col. 3, lines 62-64). This is not, according to the adhesive of the present invention, a dispersion acrylate which is expanded.

Moreover, Peltier fails to teach or disclose the adhesive being an expanded

pressure sensitive adhesive, nor does it teach or disclose how the electrically conductive stripe is fixed to the carrier layer (col. 3, last paragraph): "The stripe material ... is applied to the carrier 12 by any conventional means as for example by brush painting, spraying, a ruling pen or a striping disc." Since Peltier is clearly not only directed to a totally different product, but fails to give any motivation as to how one skilled in the art would arrive at the present invention even if combined with the teachings of Plamthottam, et al. and Valdez, it is submitted that the presently claimed invention is clearly not rendered obvious in view of the combination of the teachings of the cited references.

As has been shown by the above discussion, a sealing tape according to claim 1 of the present invention having an adhesive core which ensures adherence and imperviousness even if the adhesive of the envelope is damaged during mounting or simply by aging is neither taught nor disclosed by the combination of the cited prior art. In conclusion, it is respectfully submitted that one skilled in the art would not have considered combining the teachings of the cited prior art to arrive at the presently claimed invention, and even if such combination were performed, would not yield each and every limitation of present claims 9-11. Withdrawal of this rejection is strongly requested.

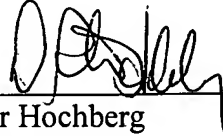
Conclusion

In light of the foregoing claims and arguments, it is believed that the present application is in condition for allowance, and such action is earnestly solicited. The

Examiner is invited to call the undersigned if there are any remaining issues to be discussed which could expedite the prosecution of the present application.

Respectfully submitted,

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